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1 **SECTION 217.** 48.981 (3) (bm) 1. of the statutes is amended to read:

2 48.981 (3) (bm) 1. If the county department knows with which Indian tribe or
3 ~~band~~ the child is affiliated, or with which Indian tribe or ~~band~~ the Indian unborn
4 child, when born, may be eligible for affiliation, and if the Indian tribe is a Wisconsin
5 tribe or band, the tribal agent of that tribe or band Indian tribe, the ~~agent of the~~

6 ~~tribal child welfare department~~ agent of that tribe

7 **SECTION 218.** 48.981 (3) (bm) 2. of the statutes is amended to read:

8 48.981 (3) (bm) 2. If the county department ~~does not know~~ with which

9 Indian tribe or ~~band~~ the child is affiliated, or with which Indian tribe or ~~band~~ the

10 Indian unborn child, when born, may be eligible for affiliation, or the child or

11 expectant mother is not affiliated with ~~and the Indian tribe is not~~ a Wisconsin Indian

12 tribe or band, the tribal agent serving the reservation or Ho-Chunk service area

13 where the child or expectant mother resides ~~that Indian tribe~~

14 **SECTION 219.** 48.981 (3) (bm) 3. of the statutes is amended to read:

15 48.981 (3) (bm) 3. If ~~neither subd. 1. nor 2. applies~~, any tribal agent serving a
16 ~~reservation or Ho-Chunk service area in the county department does not know with~~
17 ~~which Indian tribe the Indian child is affiliated, or with which Indian tribe the Indian~~
18 ~~unborn child, when born, may be eligible for affiliation, the secretary of the U.S.~~
19 ~~department of the interior~~

20 **SECTION 220.** 48.981 (7) (a) 2. of the statutes is amended to read:

21 48.981 (7) (a) 2. Appropriate staff of an agency or a tribal social services child
22 welfare department.

23 **SECTION 221.** 48.981 (7) (a) 10m. of the statutes is amended to read:

24 48.981 (7) (a) 10m. A tribal court, or other adjudicative body authorized by a
25 tribe or band an Indian tribe to perform child welfare functions, that exercises

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1 jurisdiction over children and unborn children alleged to be in need of protection or
2 services for use in proceedings in which abuse or neglect of the child who is the
3 subject of the report or record or abuse of the unborn child who is the subject of the
4 report or record is an issue.

5 **SECTION 222.** 48.981 (7) (a) 10r. of the statutes is amended to read:

6 48.981 (7) (a) 10r. A tribal court, or other adjudicative body authorized by a
7 ~~tribe or band~~ an Indian tribe to perform child welfare functions, that exercises
8 jurisdiction over children alleged to be in need of protection or services for use in
9 proceedings in which an issue is the substantial risk of abuse or neglect of a child
10 who, during the time period covered by the report or record, was in the home of the
11 child who is the subject of the report or record.

12 **SECTION 223.** 48.981 (7) (a) 11m. of the statutes is amended to read:

13 48.981 (7) (a) 11m. An attorney representing the interests of an Indian tribe
14 ~~or band~~ in proceedings under subd. 10m. or 10r., of an Indian child in proceedings
15 under subd. 10m. or 10r. or of an Indian unborn child in proceedings under subd.
16 10m.

17 **SECTION 224.** 48.981 (7) (am) of the statutes is amended to read:

18 48.981 (7) (am) Notwithstanding par. (a) (intro.), a tribal agent who receives
19 notice under sub. (3) ~~(bm)~~ may disclose the notice to a tribal social services child
20 welfare department.

21 **SECTION 225.** 48.981 (8) (a) of the statutes, ~~as affected by 2007 Wisconsin Act~~

22 ~~20,~~ is amended to read:

23 48.981 (8) (a) The department, the county departments, and a licensed child
24 welfare agency under contract with the department in a county having a population
25 of 500,000 or more to the extent feasible shall conduct continuing education and

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1 training programs for staff of the department, the county departments, licensed
2 child welfare agencies under contract with the department or a county department,
3 law enforcement agencies, and the tribal social services child welfare departments,
4 persons and officials required to report, the general public, and others as
5 appropriate. The programs shall be designed to encourage reporting of child abuse
6 and neglect and of unborn child abuse, to encourage self-reporting and voluntary
7 acceptance of services and to improve communication, cooperation, and coordination
8 in the identification, prevention, and treatment of child abuse and neglect and of
9 unborn child abuse. Programs provided for staff of the department, county
10 departments, and licensed child welfare agencies under contract with county
11 departments or the department whose responsibilities include the investigation or
12 treatment of child abuse or neglect shall also be designed to provide information on
13 means of recognizing and appropriately responding to domestic abuse, as defined in
14 s. 49.165 (1) (a). The department, the county departments, and a licensed child
15 welfare agency under contract with the department in a county having a population
16 of 500,000 or more shall develop public information programs about child abuse and
17 neglect and about unborn child abuse.

18 **SECTION 226.** 48.983 (1) (b) 1. b. of the statutes, as affected by 2007 Wisconsin
19 Act 20, is amended to read:

20 48.983 (1) (b) 1. b. An Indian child who has been the subject of a report under
21 s. 48.981 about which an Indian tribe that has received a grant under this section has
22 received notice, including but not limited to notice provided to a tribal agent under
23 s. 48.981 (3) (bm), and with respect to whom an individual designated by the Indian
24 tribe has determined that all of the conditions in subd. 2. exist.

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an Indian juvenile in need of protection or services under s 938.13 (4), (6), (6m), or (7) who is the subject of

938.02 (8g) "Indian juvenile" means an unmarried person who is under 18 years of age and who is affiliated with an Indian tribe in any of the following ways:

(a) As a member of the Indian tribe.

(b) As a person who is eligible for membership in the Indian tribe and is the biological child of a member of the Indian tribe.

SECTION 234. 938.02 (8m) of the statutes is created to read:

938.02 (8m) "Indian juvenile's tribe" means one of the following:

(a) The Indian tribe in which an Indian juvenile is a member or eligible for membership.

or of a temporary physical custody proceeding under ss. 939.19 to 938.21

(b) In the case of an Indian juvenile who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian juvenile has the more significant contacts.

of an Indian juvenile who is the subject of an Indian juvenile custody proceeding, as defined in s 938.028 (2) (b)

SECTION 235. 938.02 (8p) of the statutes is created to read:

938.02 (8p) "Indian custodian" means an Indian person who has legal custody

~~of an Indian juvenile~~ under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of ~~the~~ ^{that} juvenile.

SECTION 236. 938.02 (8r) of the statutes is created to read:

938.02 (8r) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the services provided to Indians by the U.S. secretary of the interior because of Indian status, including any Alaska native village, as defined in 43 USC 1602 (c).

SECTION 237. 938.02 (9m) of the statutes is renumbered 938.02 (8b).

SECTION 238. 938.02 (10m) of the statutes is amended to read:

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1 938.02 (10m) "Juvenile", when used without further qualification, means a
2 person who is less than 18 years of age, except that for purposes of investigating or
3 prosecuting a person who is alleged to have violated a state or federal criminal law
4 or any civil law or municipal ordinance, "juvenile" does not include a person who has
5 attained 17 years of age.

6 **SECTION 239.** 938.02 (12m) of the statutes is amended to read:

7 938.02 (12m) "Off-reservation trust land" means land in this state that is held
8 in trust by the federal government for the benefit of ~~a~~ an Indian tribe or ~~an American~~
9 Indian individual and that is located outside the boundaries of ~~a~~ an Indian tribe's
10 reservation.

11 **SECTION 240.** 938.02 (13) of the statutes is amended to read:

12 938.02 (13) "Parent" means either a biological parent, a husband who has
13 consented to the artificial insemination of his wife under s. 891.40, or a parent by
14 adoption. If the juvenile is a nonmarital child who is not adopted or whose parents
15 do not subsequently intermarry under s. 767.803, "parent" includes a person
16 acknowledged under s. 767.805 or a substantially similar law of another state or
17 adjudicated to be the biological father. "Parent" does not include any person whose
18 parental rights have been terminated. For purposes of the application of s. 938.028
19 and the federal Indian Child Welfare Act, 26 USC 1901 to 1963, "parent" includes an
20 Indian person who has lawfully adopted an Indian juvenile, including an adoption
21 under tribal law or custom, but does not include a parent by adoption who is not an
22 Indian person.

23 **SECTION 241.** 938.02 (15) of the statutes is amended to read:

24 938.02 (15) "Relative" means a parent, stepparent, brother, sister, stepbrother,
25 stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd

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For purposes of the application of § 938.028
and the Federal Indian Child Welfare Act,
26 USC 1901 to 1963, "relative" includes

1 cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding
2 generation as denoted by the prefix of grand, great, or great-great, whether by blood,
3 marriage, or legal adoption, or the spouse of any person named in this subsection,
4 even if the marriage is terminated by death or divorce. ~~"Relative" also includes in~~
5 ~~the case of an Indian juvenile,~~ an extended family member, as defined in s. 938.028
6 (2) (a), whether by blood, marriage, or adoption, including adoption under tribal law
7 or custom.

8 ~~SECTION 242. 938.02 (15c) of the statutes is repealed and recreated to read:~~

9 938.02 (15c) "Reservation" means Indian country, as defined in 18 USC 1151,
10 or any land not covered under that section to which the title is either held by the
11 United States in trust for the benefit of an Indian tribe or individual or held by an
12 Indian tribe or individual, subject to a restriction by the United States against
13 alienation.

14 SECTION 243. 938.02 (18g) of the statutes is repealed.

15 SECTION 244. 938.02 (18j) of the statutes is created to read:

16 938.02 (18j) "Tribal court" means a court that has jurisdiction over juvenile
17 custody proceedings, and that is either a court of Indian offenses or a court
18 established and operated under the code or custom of an Indian tribe, or any other
19 administrative body of an Indian tribe that is vested with authority over Indian
20 juvenile custody proceedings.

21 SECTION 245. 938.028 of the statutes is repealed and recreated to read:

22 **938.028 Indian juvenile welfare. (1) DECLARATION OF POLICY.** In Indian
23 juvenile custody proceedings, the best interests of the Indian juvenile shall be
24 determined consistent with the federal Indian Child Welfare Act, 25 USC 1901 to
25 1963. It is the policy of this state to do all of the following:

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1 (a) Cooperate fully with Indian tribes in order to ensure that the federal Indian
2 Child Welfare Act is enforced in this state.

3 (b) Protect the best interests of Indian juveniles and promote the stability and
4 security of Indian tribes and families by doing all of the following:

5 1. Establishing minimum standards for the removal of Indian juveniles from
6 their families and the placement of those juveniles in out-of-home care placements
7 that will reflect the unique value of Indian culture.

8 2. Using practices, in accordance with the federal Indian Child Welfare Act, 25
9 USC 1901 to 1963, this section, and other applicable law, that are designed to prevent
10 the voluntary or involuntary out-of-home care placement of Indian juveniles and,
11 when an out-of-home care placement is necessary, placing an Indian juvenile in a
12 placement that reflects the unique values of the Indian juvenile's tribal culture and
13 that is best able to assist the Indian juvenile in establishing, developing, and
14 maintaining a political, cultural, and social relationship with the Indian juvenile's
15 tribe and tribal community.

16 (2) DEFINITIONS. In this section:

17 (a) "Extended family member" means a person who is defined as a member of
18 an Indian juvenile's extended family by the law or custom of the Indian juvenile's
19 tribe or, in the absence of such a law or custom, a person who has attained the age
20 of 18 years and who is the Indian juvenile's grandparent, aunt, uncle, brother, sister,
21 brother-in-law, sister-in-law, niece, nephew, first cousin, 2nd cousin, or stepparent.

22 (b) "Indian juvenile custody proceeding" means a proceeding under s. 938.13
23 (4), (6), (6m), or (7) that is governed by the federal Indian Child Welfare Act, 25 USC
24 1901 to 1963, in which an out-of-home care placement may occur.

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(c) "Out-of-home care placement" means the removal of an Indian juvenile from his or her parent or Indian custodian for temporary placement in a foster home, treatment foster home, group home, residential care center for children and youth, or shelter care facility, in the home of a relative other than a parent, or in the home of a guardian, from which placement the parent or Indian custodian cannot have the

juvenile returned upon demand.

Not

Out-of-home care placement does not include holding an Indian juvenile in custody under §§ 932019 to 932026

(d) "Qualified expert witness" means a person who is any of the following:

1. A member of the Indian juvenile's tribe recognized by the Indian juvenile's tribal community as knowledgeable regarding the tribe's customs relating to family organization or child-rearing practices.

substantial

2. A member of another tribe who is knowledgeable regarding the customs of the Indian juvenile's tribe relating to family organization or child-rearing practices.

3. A professional person having substantial education and experience in the person's professional specialty and having extensive knowledge of the customs, traditions, and values of the Indian juvenile's tribe relating to family organization and child-rearing practices.

specialty

4. A layperson having substantial experience in the delivery of juvenile and family services to Indians and substantial knowledge of the prevailing social and cultural standards and child-rearing practices of the Indian juvenile's tribe.

(3) JURISDICTION OVER INDIAN JUVENILE CUSTODY PROCEEDINGS. (a) *Applicability.*

This section and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, apply to any Indian juvenile custody proceeding regardless of whether the Indian juvenile is in the legal custody or physical custody of an Indian parent, Indian custodian, extended family member, or other person at the commencement of the proceeding and whether the Indian juvenile resides or is domiciled on or off of a reservation. A

(4) Reservation means Indian country, as defined in 18 USC 1151A or any land not covered under that section to which title is either held by the United States in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual, subject to a restriction by the United States against alienation.

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1 court assigned to exercise jurisdiction under this chapter may not determine
2 whether this section and the federal Indian Child Welfare Act, 25 USC 1901 to 1963,
3 apply to an Indian juvenile custody proceeding based on whether the Indian juvenile
4 is part of an existing Indian family.

5 (b) *Exclusive tribal jurisdiction.* 1. An Indian tribe shall have exclusive
6 jurisdiction over any Indian juvenile custody proceeding involving an Indian
7 juvenile who resides or is domiciled within the reservation of the tribe, except when
8 that jurisdiction is otherwise vested in the state by federal law and except as
9 provided in subd. 2. If an Indian juvenile is a ward of a tribal court, the Indian tribe
10 shall retain exclusive jurisdiction regardless of the residence or domicile of the
11 juvenile.

12 2. Subdivision 1. does not prevent an Indian juvenile who resides or is domiciled
13 within a reservation, but who is temporarily located off the reservation, from being
14 taken into and held in custody under ss. 938.19 to 938.21 in order to prevent
15 imminent physical harm or damage to the Indian juvenile. The person taking the
16 Indian juvenile into custody or the intake worker shall immediately release the
17 Indian juvenile from custody upon determining that holding the Indian juvenile in
18 custody is no longer necessary to prevent imminent physical damage or harm to the
19 Indian juvenile and shall expeditiously restore the Indian juvenile to his or her
20 parent or Indian custodian, release the Indian juvenile to an appropriate official of
21 the Indian juvenile's tribe, or initiate an Indian juvenile custody proceeding, as may
22 be appropriate.

23 (c) *Transfer of proceedings to tribe.* In any Indian juvenile custody proceeding
24 under this chapter involving an out-of-home placement of an Indian juvenile who
25 is not residing or domiciled within the reservation of the Indian juvenile's tribe, the

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1 court assigned to exercise jurisdiction under this chapter shall, upon the petition of
2 the Indian juvenile's parent, Indian custodian, or tribe, transfer the proceeding to the
3 jurisdiction of the tribe unless any of the following applies:

4 1. A parent of the Indian juvenile objects to the transfer.

5 2. The Indian juvenile's tribe does not have a tribal court or ^{the} tribal court of the
6 Indian juvenile's tribe declines jurisdiction.

7 3. The court determines that good cause exists to deny the transfer. The court
8 may determine that good cause exists to deny the transfer only if the person opposing
9 the transfer shows to the satisfaction of the court ~~any of the following~~ ^{No ff}

10 a. ~~That the Indian juvenile is 12 years of age or over and objects to the transfer.~~

11 b. ~~That~~ the evidence or testimony necessary to decide the case cannot be
12 presented in tribal court without undue hardship to the parties or the witnesses and
13 that the tribal court is unable to mitigate the hardship by making arrangements to
14 receive the evidence or testimony by use of telephone or live audiovisual means, by
15 hearing the evidence or testimony at a location that is convenient to the parties and
16 witnesses, or by use of other means permissible under the tribal court's rules of
17 evidence.

18 (d) *Declination of jurisdiction.* If the court assigned to exercise jurisdiction
19 under this chapter determines that the petitioner in an Indian juvenile custody
20 proceeding has improperly removed the Indian juvenile from the custody of his or her
21 parent or Indian custodian or has improperly retained custody of the Indian juvenile
22 after a visit or other temporary relinquishment of custody, the court shall decline
23 jurisdiction over the petition and immediately return the Indian juvenile to the
24 custody of the parent or Indian custodian, unless the court determines that returning

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1 the Indian juvenile to his or her parent or Indian custodian would subject the Indian
2 juvenile to substantial and immediate danger or the threat of that danger.

3 (e) *Intervention*. An Indian juvenile's Indian custodian or tribe may intervene
4 at any point in an Indian juvenile custody proceeding under this chapter.

5 (f) *Full faith and credit*. The state shall give full faith and credit to the public
6 acts, records, and judicial proceedings of any Indian tribe that are applicable to an
7 Indian juvenile custody proceeding to the same extent that the state gives full faith
8 and credit to the public acts, records, and judicial proceedings of any other
9 governmental entity.

10 (4) COURT PROCEEDINGS. (a) *Notice*. In any involuntary proceeding under s.
11 938.13 (4), (6), (6m), or (7) involving the out-of-home care placement of a juvenile
12 whom the court knows or has reason to know is an Indian juvenile, the ~~court~~ party
13 seeking the out-of-home care placement shall, for the first hearing ~~at the plea~~
14 ~~fact finding, and dispositional stages~~ of the proceeding, notify the Indian juvenile's
15 parent, Indian custodian, and tribe, by certified mail, of the pending proceeding and
16 of their right to intervene in the proceeding. Notice of subsequent hearings in a ~~stage~~
17 ~~of a~~ proceeding shall be in writing and may be given by mail, personal delivery, or
18 facsimile transmission, but not by electronic mail. If the identity or location of the
19 Indian juvenile's parent, Indian custodian, or tribe cannot be determined, that notice
20 shall be given to the U.S. secretary of the interior in like manner. The ~~next~~ ^{first} hearing
21 in the proceeding may not be held until at least 10 days after receipt of the notice by
22 the parent, Indian custodian, and tribe or until at least ~~20~~ ¹⁰ days after receipt of the
23 notice by the U.S. secretary of the interior. On request of the parent, Indian
24 custodian, or tribe, the court shall grant a continuance of up to 20 additional days
25 to enable the requester to prepare for that hearing.

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of his or her parent or Indian custodian

1 (b) *Appointment of counsel.* Whenever an Indian juvenile is the subject of a
2 proceeding under s. 938.13 (4), (6), (6m), or (7) involving the removal of the Indian
3 juvenile from ~~the~~ ^{the} home or the placement of the Indian juvenile in an
4 out-of-home care placement, the Indian juvenile's parent or Indian custodian shall
5 have the right to be represented by court-appointed counsel as provided in s. 938.23
6 (2g). The court may also, in its discretion, appoint counsel for the Indian juvenile
7 under s. 938.23 (1m) or (3) if the court finds that the appointment is in the best
8 interests of the Indian juvenile.

9 (c) *Examination of reports and other documents.* Each party to a proceeding
10 under s. 938.13 (4), (6), (6m), or (7) involving the out-of-home care placement of an
11 Indian juvenile shall have the right to examine all reports or other documents filed
12 with the court upon which any decision with respect to the out-of-home care
13 placement may be based. home of the parent or Indian custodian

14 (d) *Out-of-home care placement; serious damage and active efforts.* The court
15 may not order an Indian juvenile who is in need of protection or services under s.
16 938.13 (4), (6), (6m), or (7) to be removed from the Indian juvenile's ~~home~~ and placed
17 in an out-of-home care placement unless all of the following occur:

18 1. The court finds by clear and convincing evidence, including the testimony
19 of one or more qualified expert witnesses chosen in the order of preference listed in
20 par. (e), that continued custody of the Indian juvenile by the parent or Indian
21 custodian is likely to result in serious emotional or physical damage to the juvenile.

22 2. The court finds ~~by clear and convincing evidence~~ that active efforts, as
23 described in par. (f), have been made to provide remedial services and rehabilitation
24 programs designed to prevent the breakup of the Indian family and that those efforts

removed from the home of the Indian juvenile parent or Indian

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1 have proved unsuccessful. The court shall make that finding notwithstanding that
2 a circumstance specified in s. 938.355 (2d) (b) 1. to 4. applies.

3 (e) *Qualified expert witness; order of preference.* A qualified expert witness
4 shall be chosen in the following order of preference:

5 a 1. A member of the Indian juvenile's tribe described in sub. (2) (d) 1.

6 b 2. A member of another tribe described in sub. (2) (d) 2.

7 c 3. A professional person described in sub. (2) (d) 3.

8 d 4. A layperson described described in sub. (2) (d) 4.

9 (f) *Active efforts standard.* The court may not order an Indian juvenile to be

10 placed in an out-of-home care placement unless the evidence of active efforts under

11 par. (d) 2. shows that there has been vigorous and concerted level of case work

12 beyond the level that typically constitutes reasonable efforts, as described in s.

13 938.355 (2c). The active efforts shall be made in a manner that takes into account

14 the prevailing social and cultural values, conditions, and way of life of the Indian

15 juvenile's tribe and that utilizes the available resources of the Indian juvenile's tribe,

16 tribal and other Indian child welfare agencies, extended family members of the

17 Indian juvenile, and other individual Indian caregivers. The court's consideration

18 of whether active efforts were made under par. (d) 2. shall include whether all of the

19 following activities were conducted:

20 Representatives designated by the

1. The Indian juvenile's tribe was requested to convene traditional and

21 customary support, actions, and services to resolve the Indian family's issues

22 2. Representatives of the Indian juvenile's tribe were identified, notified, and

23 invited to participate in all aspects of the Indian juvenile custody proceeding at the

24 earliest possible point in the proceeding

evaluate the Indian family's circumstances and to assist in developing a case plan that uses the resources of the tribe and of the Indian community, including

Qualification expert witness from a lower order of preference may not be chosen solely because a qualified expert witness from a higher order of preference is able to participate in the Indian juvenile custody proceeding only by telephone or live

with substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the tribal community

address

and their advice was actively solicited throughout the proceeding

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and to serve as placement resources for the
Indian juvenile

3. Extended family members of the Indian juvenile were consulted to identify and provide family structure and support for the Indian juvenile.

4. ~~Frequent visitation was made to the Indian juvenile's home.~~

5. Contact was made with extended family members of the Indian juvenile to assure ~~appropriate~~ cultural connections. *Strategies culturally*

6. All family preservation ~~alternatives~~ appropriate to the Indian juvenile's tribe were ~~exhausted~~ *employed*.

7. Community resources offering housing, financial, and transportation assistance were identified, information about those resources was provided to the Indian family, and the Indian family was actively assisted in accessing those resources. *participate in that interaction*

(5) INVALIDATION OF ACTION. Any Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7) who is the subject of an out-of-home care placement, any parent or Indian custodian from whose custody that Indian juvenile was removed, or the Indian juvenile's tribe may move the court to invalidate that out-of-home care placement on the grounds that the out-of-home care placement was made in violation of ~~s. 938.13 (4), (6), (6m), or (7)~~ 25 USC 1911 or 1912. If the court finds that those grounds exist, the court shall invalidate the out-of-home care placement.

(6) PLACEMENT OF INDIAN JUVENILE. (a) *Out-of-home care placement; preferences.* Any Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7) who is placed in an out-of-home care placement shall be placed in the least restrictive setting that most approximates a family, that meets the Indian juvenile's special needs, if any, and that is within reasonable proximity to the Indian juvenile's home, taking into account those special needs. Subject to pars. (b) to (d), in placing such an Indian juvenile in an out-of-home care placement, preference

Arrangements were made to provide natural and unsupervised family interaction in the most natural setting that can ensure the Indian juvenile's safety, as appropriate to the goals of the Indian juvenile's permanency plan, including arrangements for transportation and other assistance to enable family members to

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1 shall be given, in the absence of good cause, as described in par. (d), to the contrary,
2 to a placement in one of the following, in the order of preference listed:

3 1. The home of an extended family member of the Indian juvenile.

4 2. A foster home or treatment foster home licensed, approved, or specified by
5 the Indian juvenile's tribe.

6 3. An Indian foster home or treatment foster home licensed or approved by the
7 department, a county department, or a child welfare agency.

8 4. A group home or residential care center for children and youth approved by
9 an Indian tribe or operated by an Indian organization that has a program suitable
10 to meet the needs of the Indian juvenile.

11 (b) *Tribal or personal preferences.* ~~With~~ the Indian juvenile's tribe has established,
12 by resolution, an order of preference that is different from the order specified in par.

13 (a) the order of preference established by that tribe shall be followed, in the absence
14 of good cause, as described in par. (d), to the contrary, so long as the placement is the
15 least restrictive setting appropriate for the Indian juvenile's needs as specified in
16 par. (a). When appropriate, the preference of the Indian juvenile or parent shall be
17 considered, and, when a parent who has consented to the placement evidences a
18 desire for anonymity, that desire shall be given weight, in determining the
19 placement.

20 (c) *Social and cultural standards.* The standards to be applied in meeting the
21 placement preference requirements of this subsection shall be the prevailing social
22 and cultural standards of the Indian community in which the Indian juvenile's
23 parents or extended family members reside or with which the Indian juvenile's
24 parents or extended family members maintain social and cultural ties.

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in placing an Indian juvenile under par (a) or (b), if

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1 (d) *Good cause.* 1. Whether there is good cause to depart from the order of
2 placement preference under par. (a) ~~or~~ (b) shall be determined based on any one or
3 more of the following considerations:

4 a. When appropriate, the request of the Indian juvenile's parent or, if the Indian
5 juvenile is of sufficient age and developmental level to make an informed decision,
6 the Indian juvenile, unless the request is made for the purpose of avoiding the
7 application of this section and the federal Indian Child Welfare Act, 26 USC 1901 to
8 1963.

9 b. Any extraordinary physical, mental, or emotional health needs of the Indian
10 juvenile requiring highly specialized treatment services as established by the
11 testimony of an ~~expert~~ witness, including a qualified expert witness. The length of
12 time that an Indian juvenile has been in a placement does not, in itself, constitute
13 an extraordinary emotional health need.

14 c. The unavailability of a suitable placement for the Indian juvenile after ~~active~~
15 efforts, ~~as described in sub (4) (f)~~, have been made to place the Indian juvenile in the
16 order of preference under par. (a) or (b).

17 2. The burden of establishing good cause to depart from the order of placement
18 preference under par. (a) or (b) shall be on the party requesting that departure.

19 (e) *Report of placement.* The department of health and family services, a county
20 department, or a child welfare agency shall maintain a record of each out-of-home
21 care placement made of an Indian juvenile who is in need of protection or services
22 under s. 938.13 (4), (6), (6m), or (7), evidencing the efforts made to comply with the
23 placement preference requirements specified in this subsection, and shall make that
24 record available at any time on the request of the U.S. secretary of the interior or the
25 Indian juvenile's tribe.

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① (7) ~~RETURN OF CUSTODY~~ REMOVAL FROM OUT-OF-HOME CARE PLACEMENT. If an
2 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),
3 or (7) is removed from an out-of-home care placement for the purpose of placing the
4 Indian juvenile in another out-of-home care placement, a preadoptive placement,
5 as defined in s. 48.028 (2) (f), or an adoptive placement, as defined in s. 48.028 (2) (a),
6 the placement shall be made in accordance with this section and s. 48.028. Removal
7 of such an Indian juvenile from an out-of-home care placement for the purpose of
8 returning the Indian juvenile to the home of the parent or Indian custodian from
9 whose custody the Indian juvenile was originally removed is not subject to this
10 section.

11 (8) HIGHER STATE OR FEDERAL STANDARD APPLICABLE. The federal Indian Child
12 Welfare Act, 25 USC 1911 to 1963, supersedes this chapter in any Indian juvenile
13 custody proceeding governed by that act, except that in any case in which this
14 chapter provides a higher standard of protection for the rights of an Indian juvenile's
15 parent or Indian custodian than the rights provided under that act, the court shall
16 apply the standard under this chapter.

17 (9) RULES. The department shall promulgate rules to implement and
18 administer this section and the federal Indian Child Welfare Act, 25 USC 1901 to
19 1963.

20 SECTION 246. 938.13 (intro.) of the statutes is amended to read:

21 **938.13 Jurisdiction over juveniles alleged to be in need of protection**
22 **or services.** (intro.) The Except as provided in s. 938.028 (3), the court has exclusive
23 original jurisdiction over a juvenile alleged to be in need of protection or services
24 which can be ordered by the court if any of the following conditions applies:

25 SECTION 247. 938.15 of the statutes is amended to read:

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1 **938.15 Jurisdiction of other courts to determine legal custody.** Nothing
2 Except as provided in s. 938.028 (3), nothing in this chapter deprives another court
3 of the right to determine the legal custody ^{of a} juvenile by habeas corpus or to determine
4 the legal custody or guardianship of a juvenile if the legal custody or guardianship
5 is incidental to the determination of an action pending in that court. ~~But~~ Except as
6 provided in s. 938.028 (3), the jurisdiction of the court assigned to exercise
7 jurisdiction under this chapter and ch. 48 is paramount in all cases involving
8 juveniles alleged to come within the provisions of ss. 938.12 to 938.14.

9 **SECTION 248.** 938.185 (4) (title) of the statutes is amended to read:

10 938.185 (4) (title) ~~AMERICAN~~ INDIAN JUVENILES.

11 **SECTION 249.** 938.185 (4) (intro.) of the statutes is amended to read:

12 938.185 (4) (intro.) Venue for a proceeding under s. 938.12 or 938.13 (12) based
13 on an allegation that an ~~American~~ Indian juvenile has committed a delinquent act
14 may not be in the county specified in sub. (1) (a), unless that county is specified in
15 sub. (1) (b) or (c), if all of the following circumstances apply:

16 **SECTION 250.** 938.185 (4) (a) of the statutes is amended to read:

17 938.185 (4) (a) At the time of the alleged delinquent act the juvenile was under
18 an order of a ~~tribe's~~ tribal court, other than a tribal court order relating to adoption,
19 physical placement or visitation with the juvenile's parent, or permanent
20 guardianship.

21 **SECTION 251.** 938.185 (4) (b) of the statutes is amended to read:

22 938.185 (4) (b) At the time of the alleged delinquent act the juvenile was
23 physically outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe
24 of the tribal court and any off-reservation trust land of either that Indian tribe or a
25 member of that Indian tribe as a direct consequence of a tribal court order under par.

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1 (a), including a tribal court order placing the juvenile in the home of a relative of the
2 juvenile who on or after the date of the tribal court order resides physically outside
3 the boundaries of a reservation and off-reservation trust land.

4 **SECTION 252.** 938.19 (2) of the statutes is amended to read:

5 938.19 (2) NOTIFICATION OF PARENT, GUARDIAN, LEGAL CUSTODIAN, INDIAN
6 CUSTODIAN. When a juvenile is taken into physical custody under this section, the
7 person taking the juvenile into custody shall immediately attempt to notify the
8 parent, guardian, ~~and~~ legal custodian, and Indian custodian of the juvenile by the
9 most practical means. The person taking the juvenile into custody shall continue
10 such attempt until the parent, guardian, ~~and~~ legal custodian, and Indian custodian
11 of the juvenile are notified, or the juvenile is delivered to an intake worker under s.
12 938.20 (3), whichever occurs first. If the juvenile is delivered to the intake worker
13 before the parent, guardian, ~~and~~ legal custodian, and Indian custodian are notified,
14 the intake worker, or another person at his or her direction, shall continue the
15 attempt to notify until the parent, guardian, ~~and~~ legal custodian, and Indian
16 custodian of the juvenile are notified.

17 **SECTION 253.** 938.20 (2) (ag) of the statutes is amended to read:

18 938.20 (2) (ag) Except as provided in pars. (b) to (g), a person taking a juvenile
19 into custody shall make every effort to release the juvenile immediately to the
20 juvenile's parent, guardian ~~or~~, legal custodian, or Indian custodian.

21 **SECTION 254.** 938.20 (2) (b) of the statutes is amended to read:

22 938.20 (2) (b) If the juvenile's parent, guardian ~~or~~, legal custodian, or Indian
23 custodian is unavailable, unwilling, or unable to provide supervision for the juvenile,
24 the person who took the juvenile into custody may release the juvenile to a
25 responsible adult after counseling or warning the juvenile as may be appropriate.

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1 **SECTION 255.** 938.20 (3) of the statutes is amended to read:

2 938.20 (3) NOTIFICATION TO PARENT, GUARDIAN, LEGAL CUSTODIAN, INDIAN
3 CUSTODIAN OF RELEASE. If the juvenile is released under sub. (2) (b) to (d) or (g), the
4 person who took the juvenile into custody shall immediately notify the juvenile's
5 parent, guardian, and legal custodian, and Indian custodian of the time and
6 circumstances of the release and the person, if any, to whom the juvenile was
7 released. If the juvenile is not released under sub. (2), the person who took the
8 juvenile into custody shall arrange in a manner determined by the court and law
9 enforcement agencies for the juvenile to be interviewed by the intake worker under
10 s. 938.067 (2). The person who took the juvenile into custody shall make a statement
11 in writing with supporting facts of the reasons why the juvenile was taken into
12 physical custody and shall give a copy of the statement to the intake worker and to
13 any juvenile 10 years of age or older. If the intake interview is not done in person,
14 the report may be read to the intake worker.

15 **SECTION 256.** 938.20 (7) (c) 1. of the statutes is amended to read:

16 938.20 (7) (c) 1. To a parent, guardian, ~~or~~ legal custodian, or Indian custodian,
17 or to a responsible adult if the parent, guardian, ~~or~~ legal custodian, or Indian
18 custodian is unavailable, unwilling, or unable to provide supervision for the juvenile,
19 counseling or warning the juvenile as may be appropriate; or, if the juvenile is 15
20 years of age or older, without immediate adult supervision, counseling or warning
21 the juvenile as may be appropriate.

22 **SECTION 257.** 938.20 (7) (d) of the statutes is amended to read:

23 938.20 (7) (d) If the juvenile is released from custody, the intake worker shall
24 immediately notify the juvenile's parent, guardian ~~and~~, legal custodian, and Indian

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1 custodian of the time and circumstances of the release and the person, if any, to whom
2 the juvenile was released.

*who is the subject of an Indian juvenile custody
proceeding as defined in s. 938.028 (2)(b)*

3 **SECTION 258.** 938.20 (8) (a) of the statutes is amended to read:

4 938.20 (8) (a) If a juvenile is held in custody, the intake worker shall notify the
5 juvenile's parent, guardian, and legal custodian, and Indian custodian of the reasons
6 for holding the juvenile in custody and of the juvenile's whereabouts unless there is
7 reason to believe that notice would present imminent danger to the juvenile. The
8 parent, guardian, and legal custodian, and Indian custodian shall also be notified of
9 the time and place of the detention hearing required under s. 938.21, the nature and
10 possible consequences of the hearing, and the right to present and cross-examine
11 witnesses at the hearing, and, in the case of a parent or Indian custodian of an Indian
12 juvenile, the right to counsel under s. 938.028 (4) (b). If the parent, guardian, or legal

13 custodian, or Indian custodian is not immediately available, the intake worker or
14 another person designated by the court shall provide notice as soon as possible.

15 **SECTION 259.** 938.21 (2) (title) of the statutes is amended to read:

16 938.21 (2) (title) ~~PROCEEDINGS CONCERNING RUNAWAY OR DELINQUENT JUVENILES.~~

17 **SECTION 260.** 938.21 (2) (ag) of the statutes is amended to read:

18 938.21 (2) (ag) Proceedings concerning a juvenile who comes within the
19 jurisdiction of the court under s. 938.12 or 938.13 ~~(7) or (12) or (14)~~ (7) shall be conducted
20 according to this subsection.

21 **SECTION 261.** 938.21 (3) (ag) of the statutes is amended to read:

22 938.21 (3) (ag) Proceedings concerning a juvenile who comes within the
23 jurisdiction of the court under s. 938.13 (4), (6), (6m), or ~~(14)~~ (7) shall be conducted
24 according to this subsection.

25 **SECTION 262.** 938.21 (3) (am) of the statutes is amended to read:

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938.21 (3) (am) The parent, guardian, ~~or legal custodian, or Indian custodian~~ may waive his or her right to participate in the hearing under this section. After any waiver, a rehearing shall be granted at the request of the parent, guardian, legal custodian, Indian custodian, or any other interested party for good cause shown.

SECTION 263. 938.21 (3) (b) of the statutes is amended to read:

938.21 (3) (b) If present at the hearing, a copy of the petition or request shall be given to the parent, guardian, ~~or legal custodian,~~ or Indian custodian, and to the juvenile if he or she is 12 years of age or older, before the hearing begins. Prior notice of the hearing shall be given to the juvenile's parent, guardian, ~~and legal custodian,~~ and Indian custodian and to the juvenile if he or she is 12 years of age or older under s. 938.20 (8).

SECTION 264. 938.21 (3) (d) of the statutes is amended to read:

938.21 (3) (d) Prior to the commencement of the hearing, the court shall inform the parent, guardian, or legal custodian, or Indian custodian of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to present, confront, and cross-examine witnesses, and the right to present witnesses and, in the case of a parent or Indian custodian of an Indian juvenile, the right to counsel under s. 938.028 (4) (b).

SECTION 265. 938.21 (3) (e) of the statutes is amended to read:

938.21 (3) (e) If the parent, guardian, or legal custodian, Indian custodian, or
~~the~~ juvenile is not represented by counsel at the hearing and if the juvenile is
continued in custody as a result of the hearing, the parent, guardian, legal custodian,
Indian custodian, or juvenile may request through counsel subsequently appointed
or retained or through a guardian ad litem that the order to hold the juvenile in

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1 custody be reheard. If the request is made, a rehearing shall take place as soon as
2 possible. An order to hold the juvenile in custody shall be reheard for good cause,
3 whether or not counsel was present.

4 **SECTION 266.** 938.21 (5) (d) 1. of the statutes is renumbered 938.21 (5) (d) and
5 amended to read:

6 938.21 (5) (d) If the court finds that any of the circumstances specified in s.
7 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing
8 under s. 938.38 (4m) within 30 days after the date of that finding to determine the
9 permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the~~
10 ~~agency responsible for preparing the permanency plan shall file the permanency~~
11 ~~plan with the court not less than 5 days before the date of the hearing.~~

12 **SECTION 267.** 938.21 (5) (d) 2. of the statutes is repealed.

13 **SECTION 268.** 938.21 (5) (d) 3. of the statutes is repealed.

14 **SECTION 269.** 938.23 (2g) of the statutes is created to read:

15 938.23 (2g) RIGHT OF INDIAN JUVENILE'S PARENT OR INDIAN CUSTODIAN TO COUNSEL.

16 Whenever an Indian juvenile is the subject of a proceeding under s. 938.13 (4), (6),
17 (6m), or (7) involving the removal of the Indian juvenile from ~~his or her~~ home or the
18 placement of the Indian juvenile in an out-of-home care placement, the Indian
19 juvenile's parent or Indian custodian shall have the right to be represented by
20 court-appointed counsel as provided in sub. (4).
21

SECTION 270. 938.23 (4) of the statutes is amended to read:

22 938.23 (4) PROVIDING COUNSEL. If a juvenile has a right to be represented by
23 counsel or is provided counsel at the discretion of the court under this section and
24 counsel is not knowingly and voluntarily waived, the court shall refer the juvenile
25 to the state public defender and counsel shall be appointed by the state public

of his or her parent
or Indian custodian

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1 defender under s. 977.08 without a determination of indigency. In any situation
2 under sub. (2g) in which a parent 18 years of age or over is entitled to representation
3 by counsel; counsel is not knowingly and voluntarily waived; and it appears that the
4 parent is unable to afford counsel in full, or the parent so indicates; the court shall
5 refer the parent to the authority for indigency determinations specified under s.
6 977.07 (1). In any other situation under this section in which a person has a right
7 to be represented by counsel or is provided counsel at the discretion of the court,
8 competent and independent counsel shall be provided and reimbursed in any
9 manner suitable to the court regardless of the person's ability to pay, except that the
10 court may not order a person who files a petition under s. 813.122 or 813.125 to
11 reimburse counsel for the juvenile who is named as the respondent in that petition.

12 **SECTION 271.** 938.235 (4) (a) 7. of the statutes is amended to read:

13 938.235 (4) (a) 7. Petition for relief from a judgment terminating parental
14 rights under s. 48.028 or 48.46.

15 **SECTION 272.** 938.24 (2r) (title) of the statutes is amended to read:

16 938.24 (2r) (title) ~~AMERICAN~~ INDIAN JUVENILE; NOTIFICATION OF TRIBAL COURT.

17 **SECTION 273.** 938.24 (2r) (a) (intro.) of the statutes is amended to read:

18 938.24 (2r) (a) (intro.) If the intake worker determines as a result of the intake
19 inquiry that the juvenile is an ~~American~~ Indian juvenile who has allegedly
20 committed a delinquent act and that all of the following circumstances apply, the
21 intake worker shall promptly notify the clerk of the tribal court under subd. 1., a
22 person who serves as the tribal juvenile intake worker, or a tribal prosecuting
23 attorney that the juvenile has allegedly committed a delinquent act under those
24 circumstances:

25 **SECTION 274.** 938.24 (2r) (a) 1. of the statutes is amended to read:

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1 938.24 (2r) (a) 1. At the time of the delinquent act the juvenile was under an
2 order of a ~~tribe's~~ tribal court, other than a tribal court order relating to adoption,
3 physical placement or visitation with the juvenile's parent, or permanent
4 guardianship.

5 **SECTION 275.** 938.24 (2r) (a) 2. of the statutes is amended to read:

6 938.24 (2r) (a) 2. At the time of the delinquent act the juvenile was physically
7 outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe of the tribal
8 court and any off-reservation trust land of either that Indian tribe or a member of
9 that Indian tribe as a direct consequence of a tribal court order under subd. 1.,
10 including a tribal court order placing the juvenile in the home of a relative of the
11 juvenile who on or after the date of the tribal court order resides physically outside
12 the boundaries of a reservation and off-reservation trust land.

13 **SECTION 276.** 938.24 (2r) (b) of the statutes is amended to read:

14 938.24 (2r) (b) If the intake worker is notified by an official of the Indian tribe
15 that a petition relating to the delinquent act has been or may be filed in tribal court,
16 the intake worker shall consult with tribal officials, unless the intake worker
17 determines under sub. (4) that the case should be closed. After the consultation, the
18 intake worker shall determine whether the best interests of the juvenile and of the
19 public would be served by having the matter proceed solely in tribal court. If the
20 intake worker determines that the best interests of the juvenile and of the public
21 would be served by having the matter proceed solely in tribal court, the intake
22 worker shall close the case. If the intake worker determines that the best interests
23 of the juvenile and of the public would not be served by having the matter proceed
24 solely in tribal court, the intake worker shall proceed under sub. (3) or (4).

25 **SECTION 277.** 938.243 (1) (e) of the statutes is amended to read:

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1 938.243 (1) (e) The right of the juvenile to counsel under s. 938.23.

2 **SECTION 278.** 938.25 (2g) (title) of the statutes is amended to read:

3 938.25 (2g) (title) ~~AMERICAN INDIAN JUVENILE; CONSULTATION WITH TRIBAL COURT.~~

4 **SECTION 279.** 938.255 (1) (cm) of the statutes is amended to read:

5 938.255 (1) (cm) If the petition is initiating proceedings other than proceedings
6 ~~under s. 938.12, 938.125 or 938.13 (12) under s. 938.13 (4), (6), (6m), or (7),~~ whether
7 the juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1901 to
8 1963, and, if the juvenile may be subject to that act, the names and addresses of the
9 juvenile's Indian custodian, if any, and Indian tribe, if known.

10 **SECTION 280.** 938.255 (1) (cr) 1. a. of the statutes is amended to read:

11 938.255 (1) (cr) 1. a. The juvenile is an ~~American~~ Indian juvenile.

12 **SECTION 281.** 938.255 (1) (cr) 1. b. of the statutes is amended to read:

13 938.255 (1) (cr) 1. b. At the time of the alleged delinquent act, the juvenile was
14 under an order of a ~~tribe's~~ tribal court, other than a tribal court order relating to
15 adoption, physical placement or visitation with the juvenile's parent, or permanent
16 guardianship.

17 **SECTION 282.** 938.255 (1) (cr) 1. c. of the statutes is amended to read:

18 938.255 (1) (cr) 1. c. At the time of the delinquent act the juvenile was
19 physically outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe
20 of the tribal court and any off-reservation trust land of either that Indian tribe or a
21 member of that Indian tribe as a direct consequence of a tribal court order under
22 subd. 1. b., including a tribal court order placing the juvenile in the home of a relative
23 of the juvenile who on or after the date of the tribal court order resides physically
24 outside the boundaries of a reservation and off-reservation trust land.

25 **SECTION 283.** 938.255 (1) (cr) 2. of the statutes is amended to read:

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and if the juvenile has been removed from the home of ~~his or her~~ parent or Indian custodian

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938.255 (1) (cr) 2. If the statement under subd. 1. is included in the petition and if the intake worker, district attorney, or corporation counsel has been notified by an official of the Indian tribe that a petition relating to the delinquent act has been or may be filed in tribal court with respect to the alleged delinquent act, a statement to that effect.

SECTION 284. 938.255 (1) (g) of the statutes is created to read:

938.255 (1) (g) If the juvenile is ~~or may be~~ an Indian juvenile ~~and~~ is alleged to come within the provisions of s. 938.13 (4), (6), (6m), or (7), reliable and credible information showing that continued custody of the juvenile by the juvenile's parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and reliable and credible information showing that ~~the person who took the juvenile into custody and the intake worker have made~~ active efforts under s. 938.028 (4) (d) 2. ~~to prevent the breakup of the Indian family and that those efforts have proved unsuccessful. If the juvenile is or may be an Indian juvenile, is alleged to come within the provisions of s. 938.13 (4), (6), (6m), or (7), and is being held in custody outside of his or her home, the~~ petition shall set forth with specificity both the information required under this paragraph and the information required under par. (f).

SECTION 285. 938.255 (2) of the statutes is amended to read:

938.255 (2) If any of the facts in sub. (1) (a) to (cr) ~~and~~, (f), and (g) are not known or cannot be ascertained by the petitioner, the petition shall so state.

SECTION 286. 938.255 (4) of the statutes is amended to read:

938.255 (4) COPY TO JUVENILE, PARENTS, AND OTHERS. A copy of the petition shall be given to the juvenile and to the parents, guardian, legal custodian and physical custodian. If the juvenile is an Indian juvenile who is alleged to come within the

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of his or her parent or Indian custodian

1 provisions of s. 938.13 (4), (6), (6m), or (7), a copy of the petition shall also be given
2 to the Indian juvenile's Indian custodian and tribe.

3 **SECTION 287.** 938.27 (3) (a) 1. of the statutes is amended to read:

4 938.27 (3) (a) 1. The court shall notify, under s. 938.273, the juvenile, any
5 parent, guardian, and legal custodian of the juvenile, any foster parent, treatment
6 foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile, and
7 any person specified in par. (b) or (d), if applicable, of all hearings involving the
8 juvenile under this subchapter, except hearings on motions for which notice must be
9 provided only to the juvenile and his or her counsel. If parents entitled to notice have
10 the same place of residence, notice to one constitutes notice to the other. The first
11 notice to any interested party, foster parent, treatment foster parent, or other
12 physical custodian described in s. 48.62 (2) shall be in writing and may have a copy
13 of the petition attached to it. Notices of subsequent hearings may be given by
14 telephone at least 72 hours before the time of the hearing. The person giving
15 telephone notice shall place in the case file a signed statement of the date and time
16 notice was given and the person to whom he or she spoke.

17 **SECTION 288.** 938.27 (3) (d) of the statutes is created to read:

18 938.27 (3) (d) If the petition that was filed relates to facts concerning a situation
19 under s. 938.13 (4), (6), (6m), or (7) involving an Indian juvenile, the court shall notify,
20 under s. 938.273, the Indian juvenile's Indian custodian and tribe and that Indian
21 custodian or tribe may intervene at any point in the proceeding.

22 **SECTION 289.** 938.27 (4) (b) of the statutes is amended to read:

23 938.27 (4) (b) Advise the juvenile and any other party, if applicable, of his or
24 her right to legal counsel regardless of ability to pay.

25 **SECTION 290.** 938.273 (1) (a) of the statutes of the statutes is amended to read:

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1 938.273 (1) (a) ~~Service~~ Except as provided in pars. (ag), (ar), and (b), service of
2 summons or notice required by s. 938.27 may be made by mailing a copy of the
3 summons or notice to the ~~persons~~ person summoned or notified. If

4 (ar) Except as provided in par. (b), if the persons person, other than a person
5 specified in s. 938.27 (4m), ~~fail~~ fails to appear at the hearing or otherwise to
6 acknowledge service, a continuance shall be granted, ~~except as provided in par. (b),~~
7 and service shall be made personally by delivering to the ~~persons~~ person a copy of the
8 summons or notice; except that if the court determines that it is impracticable to
9 serve the summons or notice personally, ~~it~~ the court may order service by certified
10 mail addressed to the last-known ~~addresses~~ address of the ~~persons~~ person.

11 **SECTION 291.** 938.273 (1) (ag) of the statutes is created to read:

12 938.273 (1) (ag) In a ~~proceeding under s. 938.18 (4) (a), (b), or (c),~~ service of
13 summons or notice required by s. 938.27 to an Indian juvenile's parent, Indian
14 custodian, or tribe shall be made as provided in s. 938.028 (4) (a).

15 **SECTION 292.** 938.273 (1) (b) of the statutes is amended to read:

16 938.273 (1) (b) The court may refuse to grant a continuance when the juvenile
17 is being held in secure custody, but if the court so refuses, ~~it~~ the court shall order that
18 service of notice of the next hearing be made personally or by certified mail to the
19 last-known address of the person who failed to appear at the hearing.

20 **SECTION 293.** 938.273 (1) (c) of the statutes is renumbered 938.273 (1) (c)
21 (intro.) and amended to read:

22 938.273 (1) (c) (intro.) Personal service shall be made at least 72 hours before
23 the hearing. Mail shall be sent at least 7 days before the hearing, ~~except that when~~
24 as follows:

situation
described in s. 938.027 (3) (2) ↑

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SECTION 293

~~if the identity or location of the person to be notified cannot be determined~~

1. When the petition is filed under s. 938.13 and the person to be notified lives outside the state, the mail shall be sent at least 14 days before the hearing.

SECTION 294. 938.273 (1) (c) 2. of the statutes is created to read:

938.273 (1) (c) 2. When a petition under s. 938.13 (4), (6), (6m), or (7) involves who has been removed from the home of his or her parent or Indian custodian and the person to be notified is the Indian juvenile's parent, Indian custodian, or tribe, the mail shall be sent so that it is received by the person to be notified at least 10 days before the hearing or by the U.S. secretary of the interior at least 10 days before the time of the hearing.

SECTION 295. 938.299 (6) (d) of the statutes is amended to read:

938.299 (6) (d) The court may stay the proceedings under this chapter pending the outcome of the paternity proceedings under subch. IX of ch. 767 if the court determines that the paternity proceedings will not unduly delay the proceedings under this chapter and the determination of paternity is necessary to the court's disposition of the juvenile if the juvenile is found to be in need of protection or services or has reason to know or if the court determines that the paternity proceedings may result in a finding that the juvenile is an Indian juvenile and in a petition by the juvenile's parent, Indian custodian, or tribe for transfer of the proceeding to the jurisdiction of the tribe.

SECTION 296. 938.299 (9) (title) of the statutes is amended to read:

938.299 (9) (title) ~~AMERICAN INDIAN JUVENILE; TRIBAL COURT INVOLVEMENT.~~

SECTION 297. 938.299 (9) (a) of the statutes is amended to read:

938.299 (9) (a) If a petition under s. 938.12 or 938.13 (12) includes the statement in s. 938.255 (1) (cr) 2. or if the court is informed during a proceeding under s. 938.12 or 938.13 (12) that a petition relating to the delinquent act has been filed in a tribe's tribal court with respect to a juvenile to whom the circumstances specified in s. 938.255 (1) (cr) 1. apply, the court shall stay the proceeding and communicate

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if the identity or location of the parent, Indian custodian, or tribe cannot be determined,

with the tribal court in which the other proceeding is or may be pending to discuss which court is the more appropriate forum. or has reason to know

SECTION 298. 938.299 (10) of the statutes is created to read:

938.299 (10) If at any point in a proceeding under s. 938.13 (4), (6), (6m), or (7) the court determines that the juvenile is ~~not~~ an Indian juvenile, the court shall provide notice of the proceeding to the juvenile's parent, Indian custodian, and tribe in the manner specified in s. 938.028 (4) (a). The next hearing in the proceeding may not be held until at least 10 days after receipt of the notice by the parent, Indian custodian, and tribe or until at least ~~10~~ days after receipt of the notice by the U.S. secretary of the interior. On request of the parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for that hearing.

SECTION 299. 938.30 (1) of the statutes is amended to read:

938.30 (1) TIME OF HEARING. Except as provided in this subsection and s. 938.299 (10), the hearing to determine the juvenile's plea to a citation or a petition under s. 938.12, 938.125, or 938.13 (12) or (14), or to determine whether any party wishes to contest an allegation that the juvenile is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) or (14) shall take place on a date which allows reasonable time for the parties to prepare but is within 30 days after the filing of a petition or issuance of a citation for a juvenile who is not being held in secure custody or within 10 days after the filing of a petition or issuance of a citation for a juvenile who is being held in secure custody. In a municipal court operated jointly by 2 or more cities, towns or villages under s. 755.01 (4), the hearing to determine the juvenile's plea shall take place within 45 days after the filing of a petition or issuance of a citation for a juvenile who is not being held in secure custody.

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SECTION 300. 938.30 (2) of the statutes is amended to read:

938.30 (2) INFORMATION TO JUVENILE AND PARENTS; BASIC RIGHTS; SUBSTITUTION.

At or before the commencement of the hearing under this section the juvenile and the parent, guardian, ~~or legal custodian,~~ or Indian custodian shall be advised of their rights as specified in s. 938.243 and shall be informed that the hearing shall be to the court and that a request for a substitution of judge under s. 938.29 must be made before the end of the plea hearing or is waived. Nonpetitioning parties, including the juvenile, shall be granted a continuance of the plea hearing if they wish to consult with an attorney on the request for a substitution of a judge. Not Subject to 938.299

SECTION 301. 938.30 (6) (a) of the statutes is amended to read:

938.30 (6) (a) If a petition is not contested, the court, subject to s. 938.299 (10), shall set a date for the dispositional hearing which allows reasonable time for the parties to prepare but is no more than 10 days from the plea hearing for a juvenile who is held in secure custody and no more than 30 days from the plea hearing for a juvenile who is not held in secure custody. (10) 10 3 If all parties consent, the court may proceed immediately with the dispositional hearing. If a citation is not contested, the court may proceed immediately to enter a dispositional order.

SECTION 302. 938.30 (7) of the statutes is amended to read:

938.30 (7) CONTESTED PETITIONS OR CITATIONS; DATE FOR FACT-FINDING HEARING.

If the petition or citation is contested, the court, subject to s. 938.299 (10), shall set a date for the fact-finding hearing that allows a reasonable time for the parties to prepare but is no more than 20 days ~~from~~ after the plea hearing for a juvenile who is held in secure custody and no more than 30 days ~~from~~ after the plea hearing for a juvenile who is not held in secure custody.

SECTION 303. 938.305 of the statutes is amended to read:

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SECTION 303

938.305 Hearing upon the involuntary removal of a juvenile.

Notwithstanding other time periods for hearings under this chapter, if a juvenile is removed from the physical custody of the juvenile's parent or guardian under s. 938.19 (1) (c) or (d) 5. without the consent of the parent or guardian, the court, subject to s. 938.299 (10), shall schedule a plea hearing and fact-finding hearing within 30 days after a request from the parent or guardian from whom custody was removed. The plea hearing and fact-finding hearing may be combined. This time period may be extended only with the consent of the requesting parent or guardian.

SECTION 304. 938.31 (7) (a) of the statutes is amended to read:

938.31 (7) (a) At the close of the fact-finding hearing, the court, subject to s. 938.299 (10), shall set a date for the dispositional hearing that allows a reasonable time for the parties to prepare but is no more than 10 days after the fact-finding hearing for a juvenile in secure custody and no more than 30 days after the fact-finding hearing for a juvenile not held in secure custody. If all parties consent, the court may immediately proceed with a dispositional hearing.

SECTION 305. 938.315 (1) (a) 11. of the statutes is created to read:

938.315 (1) (a) 11. A continuance, not to exceed 20 days, granted at the request of the parent, Indian custodian, or tribe of a juvenile ~~who is or may be an Indian~~ juvenile to enable the requester to prepare for a proceeding under s. 938.13 (4), (6), (6m), or (7) involving the juvenile.

SECTION 306. 938.315 (2) of the statutes is amended to read:

938.315 (2) CONTINUANCE FOR GOOD CAUSE. A continuance may be granted by the court only upon a showing of good cause in open court or during a telephone conference under s. 807.13 on the record and only for so long as is necessary, taking into account the request or consent of the representative of the public under s. 938.09

the out-of-home care placement of

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1 or the parties, the request of a person specified in sub. (1) (a) 11., the interests of the
2 victims, and the interest of the public in the prompt disposition of cases.

3 **SECTION 307.** 938.32 (1) (d) 1. of the statutes is renumbered 938.32 (1) (d) and
4 amended to read:

5 938.32 (1) (d) If the court finds that any of the circumstances specified in s.
6 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing
7 under s. 938.38 (4m) within 30 days after the date of that finding to determine the
8 permanency plan for the juvenile. ~~The agency responsible for preparing the~~
9 ~~permanency plan shall file the permanency plan with the court not less than 5 days~~
10 ~~before the date of the hearing.~~

11 **SECTION 308.** 938.32 (1) (d) 2. of the statutes is repealed.

12 **SECTION 309.** 938.32 (1) (d) 3. of the statutes is repealed.

13 **SECTION 310.** 938.33 (4) (d) of the statutes is created to read:

14 938.33 (4) (d) In the case of a proceeding under s. 938.13 (4), (6), (6m), or (7),
15 if the agency knows or has reason to know that the juvenile is an Indian juvenile, a
16 description of any efforts undertaken to determine whether the juvenile is an Indian
17 juvenile; specific information showing that continued custody of the juvenile by the
18 parent or Indian custodian is likely to result in serious emotional or physical damage
19 to the juvenile, under s. 938.028 (4) (d) 1.; specific information showing that the
20 county department or agency primarily responsible for providing services to the
21 juvenile has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of
22 the Indian family and that those efforts have proved unsuccessful; a statement as to
23 whether the out-of-home care placement recommended is in compliance with the
24 order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6)
25 (b); and, if the recommended placement is not in compliance with that order, specific

who is being removed from the home of his or her parent or
Indian custodian

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SECTION 310

1 information showing good cause, as described in s. 938.028 (6) (d), for departing from
2 that order.

Not removal of the Indian juvenile from the home of his or her parent or Indian custodian and

3 **SECTION 311.** 938.335 (3j) of the statutes is created to read:

4 938.335 (3j) INDIAN JUVENILE; ACTIVE EFFORTS FINDING. At hearings under this
5 section involving an Indian juvenile who is the subject of a proceeding under s. 938.13
6 (4), (6), (6m), or (7), if the agency, as defined in s. 938.38 (1) (a), is recommending
7 placement of the Indian juvenile in a foster home, treatment foster home, group
8 home, or residential care center for children and youth or in the home of a relative
9 other than a parent, the agency shall present as evidence specific information
10 showing all of the following:

11 (a) That continued custody of the Indian juvenile by the parent or Indian
12 custodian is likely to result in serious emotional or physical damage to the Indian
13 juvenile under s. 938.028 (4) (d) 1.

14 (b) That the county department or agency primarily responsible for providing
15 services to the Indian juvenile has made active efforts under s. 938.028 (4) (d) 2. to
16 prevent the breakup of the Indian family and that those efforts have proved
17 unsuccessful.

18 (c) That the placement recommended is in compliance with the order of
19 placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) or,
20 if that placement is not in compliance with that order, good cause, as described in s.
21 938.028 (6) (d), for departing from that order.

22 **SECTION 312.** 938.345 (1m) of the statutes is created to read:

23 938.345 (1m) INDIAN JUVENILE; PLACEMENT PREFERENCES. (a) Subject to s.
24 938.028 (6) (b), if the juvenile is an Indian juvenile who is in need of protection or
25 services under s. 938.13 (4), (6), (6m), or (7) and who is being placed in an

removed from the home of his or her parent or Indian custodian and placed outside that home

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SECTION 312

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is an out-of-home care placement as defined in s. 938.028 (2)(c)

1 out-of-home care placement, as defined in s. 938.028 (2)(c), the court shall designate
2 one of the placements specified in s. 938.028 (6) (a) 1. to 4. as the placement for the
3 Indian juvenile, in the order of preference listed, unless the court finds good cause,
4 as described in s. 938.028 (6) (d), for departing from that order.

5 SECTION 313. 938.355 (2) (b) 6v. of the statutes is created to read:

6 938.355 (2) (b) 6v. If the juvenile is an Indian juvenile who is in need of
7 protection or services under s. 983.13 (4), (6), (6m), or (7) and who is placed outside
8 the home, a finding supported by clear and convincing evidence, including the
9 testimony of one or more qualified expert witnesses, that continued custody of the
10 Indian juvenile by the parent or Indian custodian is likely to result in serious
11 emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and a finding
12 supported by clear and convincing evidence as to whether the county department or
13 agency primarily responsible for providing services under a court order has made
14 active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family
15 and that those efforts have proved unsuccessful. The findings under this subsection
16 shall be in addition to the findings under subd. 6., except that for the sole purpose
17 of determining whether the cost of providing care for an Indian juvenile is eligible
18 for reimbursement under 42 USC 670 to 679b, the findings under this subdivision
19 and the findings under subd. 6. shall be considered to be the same findings.

20 SECTION 314. 938.355 (2) (d) of the statutes is amended to read:

21 938.355 (2) (d) The court shall provide a copy of the dispositional order to the
22 juvenile's parent, guardian, legal custodian, or trustee and, if the juvenile is an
23 Indian juvenile who is in need of protection or services under s. 938.13 (4) (6), (6m),
24 or (7), to the Indian juvenile's Indian custodian and tribe

who is placed in an out-of-home care placement as defined in s. 938.028 (2)(c)

The findings under this subdivision are not required if the findings made in a previous order in the proceeding unless a change in circumstances warrants

sub d.

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from the home of his or her parent or Indian
custodian and placing the juvenile ~~in a~~
~~facility~~

SECTION 315

outside that home

SECTION 315. 938.355 (2d) (c) 1. of the statutes is renumbered 938.355 (2d) (c)

and amended to read:

938.355 (2d) (c) If the court finds that any of the circumstances under par. (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the date of the hearing.~~

SECTION 316. 938.355 (2d) (c) 2. of the statutes is repealed.

SECTION 317. 938.355 (2d) (c) 3. of the statutes is repealed.

SECTION 318. 938.355 (2d) (d) of the statutes is created to read:

938.355 (2d) (d) This subsection does not affect the requirement under sub. (2) (b) 6v. that the court include in a dispositional order ~~placing~~ ^{removing} an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) ~~outside the home~~ ^{in an out of home care placement} ~~home~~ a finding as to whether the county department or agency primarily responsible for providing services under a court order has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful.

SECTION 319. 938.355 (6) (an) 1. of the statutes is amended to read:

938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction under par. (d) 1. or the sanction under par. (d) 3., with monitoring by an electronic monitoring system. A sanction may be imposed under

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1 this subdivision only if, at the time of the judgment, the municipal court explained
 2 the conditions to the juvenile and informed the juvenile of those possible sanctions
 3 for a violation or if before the violation the juvenile has acknowledged in writing that
 4 he or she has read, or has had read to him or her, those conditions and possible
 5 sanctions and that he or she understands those conditions and possible sanctions.
 6 The petition shall contain a statement of whether the juvenile may be subject to the
 7 federal Indian Child Welfare Act, 25 USC 1911 to 1963, and, if the juvenile may be
 8 subject to that act, the names and addresses of the juvenile's Indian custodian, if any,
 9 and tribe, if known.

10 **SECTION 320.** 938.355 (6) (b) of the statutes is amended to read:

11 938.355 (6) (b) *Motion to impose sanction.* A motion for imposition of a sanction
 12 may be brought by the person or agency primarily responsible for the provision of
 13 dispositional services, the district attorney or corporation counsel, or the court that
 14 entered the dispositional order. If the court initiates the motion, that court is
 15 disqualified from holding a hearing on the motion. Notice of the motion shall be given
 16 to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian, and all
 17 parties present at the original dispositional hearing. The motion shall contain a
 18 statement of whether the juvenile may be subject to the federal Indian Child Welfare
 19 Act, 25 USC 1911 to 1963 and, if the juvenile may be subject to that act, the names
 20 and addresses of the juvenile's Indian custodian, if any, and tribe, if known.

21 **SECTION 321.** 938.355 (6) (bm) of the statutes is created to read:

22 938.355 (6) (bm) *Indian juvenile; notice.* If the person initiating the motion
 23 knows or has reason to know that the juvenile is an Indian juvenile who has been
 24 found to be in need of protection or services under s. 938.13 (4), ~~(6)~~ (6m), or (7) or who
 25 has been adjudged to have violated a civil law or ordinance, notice under par. (b) to

other than an ordinance enacted under 1180/63 (1m) or (2)A

and if the motion is seeking removal of the juvenile from the home of his or her parent or Indian custodian and placement of the juvenile in a place of nonsecure custody

specified
in para
(d) 107

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if the identity or location of the Indian juvenile's parent, Indian custodian, or tribe cannot be determined,

SECTION 321

the Indian juvenile's parent shall be provided in the manner specified in s. 938.028

(4) (a). In like manner, the court shall also notify the Indian juvenile's Indian custodian and tribe. No hearing may be held under par. (c) until at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or until at least 10 days after receipt of the notice by the U.S. secretary of the interior.

On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing. *Other than an ordinance enacted under s. 118.0163 (1m) or (2)*

SECTION 322. 938.355 (6) (cr) of the statutes is created to read:

In the fine of
~~938.355 (6) (cr) Indian juvenile; findings. The court may not order the sanction removal from the home of her or her parent or Indian custodian and~~
 off placement in a place of nonsecure custody specified in par. (d) 1. for an Indian juvenile who has been found to be in need of protection or services under s. 983.13 (4), ~~(6)~~ (6m), or (7) or who has been adjudged to have violated a civil law or ordinance unless the court finds by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and *The court finds* that the agency primarily responsible for providing services for the Indian juvenile has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful. These findings are not required if they were made in the dispositional order under which the juvenile is being sanctioned. The findings under this paragraph shall be in addition to the findings under par. (cm), except that for the sole purpose of determining whether the cost of providing care for an Indian juvenile is eligible for reimbursement under 42 USC 670 to 679b, the findings under

No ff
 the court may not order the sanction of removal from the home of the Indian juvenile's parent or Indian custodian and placement in a place of nonsecure custody specified in par. (d) 1.

BILL**No. 1**

who has been found to be in need of protection or services under s. 939.013 (6) or who has been adjudged to have violated an ordinance under s. 118.163 (2) and if the motion is seeking removal of the juvenile from the home of his or her parent or Indian custodian and placement in a place of nonsecure custody ~~specified in par. (a) 1g~~ specified in par. (a) 1g.

SECTION 323. 938.355 (6m) (am) 1. of the statutes is amended to read:

938.355 (6m) (am) 1. If a juvenile who has violated a municipal ordinance enacted under s. 118.163 (2) violates a condition of a dispositional order imposed by the municipal court, the municipal court may petition the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction specified in par. (a) 1g. A sanction may be imposed under this subdivision only if, at the time of the judgment the municipal court explained the conditions to the juvenile and informed the juvenile of that possible sanction or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible sanction and that he or she understands those conditions and that possible sanction. The petition shall contain a statement of whether the juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1911 to 1963, and, if the juvenile may be subject to that act, the names and addresses of the juvenile's Indian custodian, if any, and tribe, if known.

SECTION 324. 938.355 (6m) (bm) of the statutes is created to read:

938.355 (6m) (bm) *Indian juvenile; notice.* If the person initiating the motion knows or has reason to know that the juvenile is an Indian juvenile, notice under par. (b) to the Indian juvenile's parent shall be provided in the manner specified in s. 938.028 (4) (a). In like manner, the court shall also notify the Indian juvenile's Indian

custodian and tribe. No hearing may be held under par. (c) until at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or until at least 10 days after receipt of the notice by the U.S. secretary of the interior.

On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall

if the identity or location of the Indian juvenile's parent, Indian custodian, or tribe cannot be determined,

BILL 54 The court may not order the sanction of removal ~~from~~ from the home of the Indian juvenile's parent or Indian custodian and placement in a place of grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing. nonsecure custody ~~under~~ specified in par. (a) 1505

SECTION 325. 938.355 (6m) (c) of the statutes is amended to read:

938.355 (6m) (c) *Sanction hearing.* Before imposing a sanction under par. (a) or (ag), the court shall hold a hearing at which the juvenile is entitled to be represented by legal counsel and to present evidence. The Except as provided in par. (bm), the hearing shall be held within 15 days after the filing of a motion under par.

(b). who has been found to be in need of protection or services under 938.03 (6) or who has been adjudged to have violated an ordinance ~~or~~ enacted

SECTION 326. 938.355 (6m) (cr) of the statutes is created to read: under 1180163 (2)

938.355 (6m) (cr) *Indian juvenile; findings.* ~~The court may not order the removal from the home of the parent or Indian custodian and, sanction of placement in a place of nonsecure custody specified in par. (a) 1g. for an~~

Indian juvenile unless the court finds by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and that the agency primarily responsible for providing services for the Indian juvenile has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful. These findings are not required if they were made in the dispositional order under which the juvenile is being sanctioned. The findings under this paragraph shall be in addition to the findings under par. (cm), except that for the sole purpose of determining whether the cost of providing care for an Indian juvenile is eligible for reimbursement under 42 USC 670 to 679b, the findings under this paragraph and the findings under par. (cm) shall be considered to be the same findings.

SECTION 327. 938.357 (1) (am) 1. of the statutes is amended to read:

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1 938.357 (1) (am) 1. If the proposed change in placement involves any change
2 in placement other than a change in placement under par. (c), the person or agency
3 primarily responsible for implementing the dispositional order or the district
4 attorney shall cause written notice of the proposed change in placement to be sent
5 to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any
6 foster parent, treatment foster parent, or other physical custodian described in s.
7 48.62 (2) of the juvenile. If the juvenile is an Indian juvenile ~~who is in need of~~
8 ~~protection or services~~ under s. 938.13 (4), (6), (6m), or (7), written notice shall also
9 be sent to the Indian juvenile's Indian custodian and tribe. The notice shall contain
10 the name and address of the new placement, the reasons for the change in placement,
11 a statement describing why the new placement is preferable to the present
12 placement, and a statement of how the new placement satisfies objectives of the
13 treatment plan ordered by the court.

14 **SECTION 328.** 938.357 (1) (am) 1g. of the statutes is created to read:

15 938.357 (1) (am) 1g. If the juvenile is an Indian juvenile who ~~is in need of~~
16 ~~protection or services~~ under s. 938.13 (4), (6), (6m), or (7) and if the proposed change
17 in placement would change the Indian juvenile's placement from a placement outside
18 ~~the~~ home to another placement outside ~~the~~ home, a notice under subd. 1. shall also
19 contain a statement as to whether the new placement is in compliance with the order
20 of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) and,
21 if the new placement is not in compliance with that order, specific information
22 showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

23 **SECTION 329.** 938.357 (1) (am) 1m. of the statutes is created to read:

24 938.357 (1) (am) 1m. In a proceeding involving an Indian juvenile who is in
25 need of protection or services under s. 938.13 (4), (6), (6m), or (7), notice under subd.

has been removed from the home of his or her parent or Indian custodian

BILL**SECTION 329**

if the identity or location of the Indian juvenile's parent, Indian custodian, or tribe cannot be determined,

1. to the Indian juvenile's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 938.028 (4) (a). No hearing on the request may be held until at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or ^(b) until at least 25 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

who has been removed from the home of his or her parent or

SECTION 330. 938.357 (1) (am) 2. of the statutes is amended to read:

938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of Indian a specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection with the court within 10 days after receipt of the notice. Placements may not be changed until 10 days after that notice is sent to the court unless the parent, guardian, or legal custodian and, or Indian custodian, the juvenile, if 12 or more years of age, and the juvenile's tribe, if the juvenile is an Indian juvenile ~~who is in need of protection or services~~ under s. 938.13 (4), (6), (6m), or (7), sign written waivers of objection, except that changes in placement that were authorized in the dispositional order may be made immediately if notice is given as required under subd. 1. In addition, a hearing is not required for placement changes authorized in the dispositional order except when an objection filed by a person who received notice alleges that new information is available that affects the advisability of the court's dispositional order.

SECTION 331. 938.357 (1) (am) 3. of the statutes, ~~as affected by 2007 Wisconsin Act 20~~ is amended to read:

938.357 (1) (am) 3. If the court changes the juvenile's placement from a placement outside the home to another placement outside the home, the change in

what is placed in the out-of-home care placement, as defined in s. 938.02 (2)(a)

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SECTION 331

placement order shall contain the applicable order under sub. (2v) (a) 1m. and the applicable statement under sub. (2v) (a) 2. If the court changes the placement of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a placement outside the home to another placement outside the home, the change in placement order shall, in addition, comply with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b), unless the court finds good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 332. 938.357 (1) (c) 1m. of the statutes is created to read:

938.357 (1) (c) 1m. If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), a request under subd. 1. shall also contain specific information showing that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1., specific information showing that the agency primarily responsible for implementing the dispositional order has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful, a statement as to whether the new placement is in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 333. 938.357 (1) (c) 2. of the statutes is amended to read:

938.357 (1) (c) 2. The court shall hold a hearing prior to ordering a change in placement requested under subd. 1. At least 3 days prior to the hearing, the court shall provide notice of the hearing, together with a copy of the request for the change in placement, to the juvenile, the parent, guardian, and legal custodian of the

and if the proposed change in placement would change the placement of the juvenile from a placement in the home of his or her parent or Indian custodian to a placement outside that home

Parent or Indian custodian

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1 order shall contain the findings under sub. (2v) (a) 4. and comply with the order of
2 placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b).
3 unless the court finds good cause, as described in s. 938.028 (6) (d), for departing from
4 that order.

5 **SECTION 336.** 938.357 (2m) (a) of the statutes is amended to read:

6 938.357 (2m) (a) *Request; information required.* The juvenile, the parent,
7 guardian, or legal custodian of the juvenile, ~~or~~ any person or agency primarily bound
8 by the dispositional order, other than the person or agency responsible for
9 implementing the order, or, if the juvenile is an Indian juvenile who is in need of
10 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian
11 custodian may request a change in placement under this paragraph. The request
12 shall contain the name and address of the new placement requested and shall state
13 what new information is available that affects the advisability of the current
14 placement. If the proposed change in placement would change the placement of a
15 juvenile placed in the juvenile's home to a placement outside the home, the request
16 shall also contain specific information showing that continued placement of the
17 juvenile in the juvenile's home would be contrary to the welfare of the juvenile and,
18 unless any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies, specific
19 information showing that the agency primarily responsible for implementing the
20 dispositional order has made reasonable efforts to prevent the removal of the
21 juvenile from the home, while assuring that the juvenile's health and safety are the
22 paramount concerns. The request shall be submitted to the court. The court may
23 also propose a change in placement on its own motion.

24 **SECTION 337.** 938.357 (2m) (am) of the statutes is created to read:

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SECTION 337

938.357 (2m) (am) *Indian juvenile; information required.* 1. If the proposed change of placement would change the placement of an Indian juvenile placed in the ~~Indian juvenile's~~ home under s. 938.357 (4), (6), (6m), or (7) to a placement outside ~~the Indian juvenile's~~ home, a request under par. (a) shall also contain specific information showing that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1., specific information showing that the agency primarily responsible for implementing the dispositional order has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful, a statement as to whether the new placement is in compliance with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

2. If the proposed change in placement would change the placement of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a placement outside the home to another placement outside ~~the~~ home, a request under par. (a) shall also contain a statement as to whether the new placement is in compliance with the order of placement preference under s. 938.028 (6) (a) or if applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

SECTION 338. 938.357 (2m) (b) of the statutes is amended to read:

938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior to ordering any change in placement requested or proposed under par. (a) if the

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- 155 - his or her

of the juvenile's parent or Indian
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SECTION 338

request states that new information is available that affects the advisability of the current placement. A hearing is not required if the requested or proposed change in placement does not involve a change in placement of a juvenile placed in the juvenile's home to a placement outside the juvenile's home, written waivers of objection to the proposed change in placement are signed by all parties entitled to receive notice under sub. (1) (am) 1. this paragraph, and the court approves. If a hearing is scheduled, not less than 3 days before the hearing the court shall notify the juvenile, the parent, guardian, and legal custodian of the juvenile, any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile, and all parties who are bound by the dispositional order at least 3 days prior to the hearing, and, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. A copy of the request or proposal for the change in placement

Subject to paragraph 14
shall be attached to the notice. ~~if~~ Strike all of the parties consent, the court may proceed immediately with the hearing. and if the proposed change in placement would change the placement of the Indian juvenile from a placement in the home to a placement outside the home

~~SECTION 339.~~ 938.357 (2m) (bm) of the statutes is created to read:

938.357 (2m) (bm) *Indian juvenile; notice.* If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), notice under par. (b) to the Indian juvenile's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 938.028 (4) (a). Strike ~~No~~ hearing on the request or proposal may be held until at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or until at least ~~10~~ 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

if the identity or location of the Indian juvenile's parent, Indian custodian, or tribe cannot be determined,

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SECTION 340

~~of the juvenile's parent or~~
Indian / Custodian

1) SECTION 340. 938.357 (2m) (c) of the statutes, as affected by 2007 Wisconsin

2) ~~938.357~~ is renumbered 938.357 (2m) (c) 1. and amended to read:

3 938.357 (2m) (c) *Findings required.* 1. If the court changes the juvenile's
 4 placement from a placement in the juvenile's home to a placement outside the
 5 juvenile's home, the change in placement order shall contain the findings under sub.

6 (2v) (a) 1., the applicable order under sub. (2v) (a) 1m., the applicable statement
 7 under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances
 8 under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the determination
 9 under sub. (2v) (a) 3. If the court changes the placement of an Indian juvenile who

10 is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a

11 placement in the ~~Indian juvenile's~~ home to a placement outside the ~~Indian juvenile's~~

12 home, the change in placement order shall, in addition, contain the findings under

13 sub. (2v) (a) 4. and comply with the order of placement preference under s. 938.028

14 (6) (a) or, if applicable, s. 938.028 (6) (b), unless the court finds good cause, as

15 described in s. 928.028 (6) (d), for departing from that order.

16 2. If the court changes the juvenile's placement from a placement outside the
 17 home to another placement outside the home, the change in placement order shall
 18 contain the applicable order under sub. (2v) (a) 1m. and the applicable statement
 19 under sub. (2v) (a) 2. If the court changes the placement of an Indian juvenile who
 20 is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a

21 placement outside the ~~Indian juvenile's~~ home to another placement outside the

22 ~~Indian juvenile's~~ home, the change in placement order shall, in addition, comply with

23 the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028

24 (6) (b), unless the court finds good cause, as described in s. 938.028 (6) (d), for

25 departing from the order.

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his or her
~~of the Indian juvenile's parent or Indian~~
 custodian

SECTION 341. 938.357 (2v) (a) 4. of the statutes is created to read:

938.357 (2v) (a) 4. If the change in placement order changes the placement of an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a placement in the ~~Indian juvenile's~~ home to a placement outside ~~the Indian juvenile's~~ home, a finding supported by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and a finding ~~supported by clear and convincing evidence~~ that the agency primarily responsible for implementing the dispositional order has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful. The findings under this subdivision shall be in addition to the findings under subd. 1., except that for the sole purpose of determining whether the cost of providing care for an Indian juvenile is eligible for reimbursement under 42 USC 670 to 679b, the findings under this subdivision and the findings under subd. 1. shall be considered to be the same findings.

SECTION 342. 938.357 (2v) (c) 1. of the statutes is renumbered 938.357 (2v) (c) and amended to read:

938.357 (2v) (c) If the court finds under par. (a) 3. that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency plan for the juvenile. ~~If a hearing is held under this paragraph, the agency responsible for preparing the permanency plan shall file the permanency plan with the court at least 5 days before the date of the hearing.~~

SECTION 343. 938.357 (2v) (c) 2. of the statutes is repealed.

No ff
 The findings under this subdivision are not required if they were made in a previous order in the proceeding ~~unless~~ unless a change in circumstances warrants new findings.

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1 SECTION 344. 938.357 (2v) (c) 3. of the statutes is repealed.

2 SECTION 345. 938.363 (1) (a) of the statutes is amended to read:

3 938.363 (1) (a) A juvenile, the juvenile's parent, guardian, or legal custodian,
4 any person or agency bound by a dispositional order, or the district attorney or
5 corporation counsel in the county in which the dispositional order was entered or, if
6 the juvenile is an Indian juvenile who is ~~in need of protection or services~~ ^{stet} under s.
7 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian may request a
8 revision in the order that does not involve a change in placement, including a revision
9 with respect to the amount of child support to be paid by a parent. The court may
10 also propose a revision. The request or court proposal shall set forth in detail the
11 nature of the proposed revision and what new information is available that affects
12 the advisability of the court's disposition. The request or court proposal shall be
13 submitted to the court. The court shall hold a hearing on the matter prior to any
14 revision of the dispositional order if the request or court proposal indicates that new
15 information is available that affects the advisability of the court's dispositional order,
16 unless written waivers of objections to the revision are signed by all parties entitled
17 to receive notice and the court approves.

18 SECTION 346. 938.363 (1) (b) of the statutes is amended to read:

19 938.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court
20 shall notify the juvenile, the juvenile's parent, guardian, and legal custodian, all
21 parties bound by the dispositional order, the juvenile's foster parent, treatment
22 foster parent, or other physical custodian described in s. 48.62 (2), and the district
23 attorney or corporation counsel in the county in which the dispositional order was
24 entered at least 3 days prior to the hearing ^{on it} ~~and~~ ^{stet} if the juvenile is an Indian juvenile
25 who is ~~in need of protection or services~~ ^{stet} under s. 938.13 (4), (6), (6m), or (7), the Indian

the court shall
also notify

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^ If that juvenile is placed outside the home of his or her parent or Indian custodian the Indian juvenile's

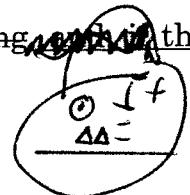
juvenile's Indian custodian and tribe. A copy of the request or proposal shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order, or revise an original order under s. 938.34 (3) (f) or (6) (am) to impose more than a total of 30 days of detention, nonsecure custody, or inpatient treatment on a juvenile.

SECTION 347. 938.365 (1m) of the statutes is amended to read:

938.365 (1m) REQUEST FOR EXTENSION. The parent, juvenile, guardian, legal custodian, any person or agency bound by the dispositional order, the district attorney or corporation counsel in the county in which the dispositional order was entered, ~~or~~ the court on its own motion, or, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian may request an extension of an order under s. 938.355. The request shall be submitted to the court ~~which~~ that entered the order. An order under s. 938.355 for placement of a juvenile in detention, nonsecure custody, or inpatient treatment under s. 938.34 (3) (f) or (6) (am) may not be extended. Other orders or portions of orders under s. 938.355 may be extended only as provided in this section.

SECTION 348. 938.365 (2) of the statutes is amended to read:

938.365 (2) NOTICE. No order may be extended without a hearing. The court shall ~~notify~~ provide notice of the time and place of the hearing to the juvenile or the juvenile's guardian ad litem or counsel, the juvenile's parent, guardian, and legal custodian, all of the parties present at the original hearing, the juvenile's foster parent, treatment foster parent or other physical custodian described in s. 48.62 (2), ~~and~~ the district attorney or corporation counsel in the county in which the dispositional order was entered ~~of the time and place of the hearing~~ at the



~~Bill~~ the court shall also

notify

juvenile is an Indian juvenile who is in need of protection or services under s. 938.13

(4), (6), (6m), or (7), the Indian juvenile's Indian custodian and if that juvenile is placed

SECTION 349. 938.365 (2g) (b) 4. of the statutes is created to read: outside the home of his or her parent or Indian custodian

938.365 (2g) (b) 4. If the juvenile is an Indian juvenile who is placed outside of his or her parent or Indian custodian

the home under s. 938.13 (4), (6), (6m), or (7), specific information showing that active

efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian

family and that those efforts have proved unsuccessful. of his or her parent or Indian

SECTION 350. 938.365 (2m) (a) 1. of the statutes is amended to read: custodian

938.365 (2m) (a) 1. Any party may present evidence relevant to the issue of extension. If the juvenile is placed outside of his or her home, the person or agency primarily responsible for providing services to the juvenile shall present as evidence specific information showing that the person or agency has made reasonable efforts to achieve the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies. If an Indian juvenile is placed outside the home

under s. 938.13 (4), (6), (6m), or (7), the person or agency primarily responsible for providing services to the Indian juvenile shall also present as evidence specific information showing that the person or agency has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful.

1m. The court shall make findings of fact and conclusions of law based on the evidence. The findings of fact shall include a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the juvenile to achieve the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and the court finds that any of the

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& has a bar parent or Indian custodian

1 circumstances under s. 938.355 (2d) (b) 1. to 4. applies. If the juvenile is an Indian
2 juvenile who is placed outside the home under s. 938.13 (4), (6), (6m), or (7), the
3 findings of fact shall also include a finding as to whether active efforts under s.
4 938.028 (4) (d) 2. were made to prevent the breakup of the Indian family and as to
5 whether those efforts have proved unsuccessful. An order shall be issued under s.
6 938.355.

7 **SECTION 351.** 938.365 (2m) (a) 3. of the statutes is amended to read:

8 938.365 (2m) (a) 3. The court shall make the findings under subd. 1. 1m.
9 relating to reasonable efforts to achieve the goal of the juvenile's permanency plan
10 and the findings under subd. 2. on a case-by-case basis based on circumstances
11 specific to the juvenile and shall document or reference the specific information on
12 which those findings are based in the order issued under s. 938.355. An order that
13 merely references subd. 1. 1m. or 2. without documenting or referencing that specific
14 information in the order or an amended order that retroactively corrects an earlier
15 order that does not comply with this subdivision is not sufficient to comply with this
16 subdivision.

17 **SECTION 352.** 938.365 (2m) (ad) 1. of the statutes is renumbered 938.365 (2m)
18 (ad) and amended to read:

19 938.365 (2m) (ad) If the court finds that any of the circumstances under s.
20 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing
21 under s. 938.38 (4m) within 30 days after the date of that finding to determine the
22 permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the~~
23 ~~agency responsible for preparing the permanency plan shall file the permanency~~
24 ~~plan with the court not less than 5 days before the date of the hearing.~~

25 **SECTION 353.** 938.365 (2m) (ad) 2. of the statutes is repealed.

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SECTION 354

1 **SECTION 354.** 938.365 (2m) (ag) of the statutes is amended to read:

2 938.365 (2m) (ag) The court shall give a foster parent, treatment foster parent,
3 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
4 ~~par. (ad) 2. or~~ sub. (2) an opportunity to be heard at the hearing by permitting the
5 foster parent, treatment foster parent, or other physical custodian to make a written
6 or oral statement during the hearing, or to submit a written statement prior to the
7 hearing, relevant to the issue of extension. A foster parent, treatment foster parent,
8 or other physical custodian who receives notice of a hearing under ~~par. (ad) 2. or~~ sub.
9 (2) and an opportunity to be heard under this paragraph does not become a party to
10 the proceeding on which the hearing is held solely on the basis of receiving that notice
11 and having the opportunity to be heard.

12 **SECTION 355.** 938.38 (3) (intro.) of the statutes is amended to read:

13 938.38 (3) TIME. (intro.) Subject to s. 938.355 (2d) (c) ~~1.~~, the agency shall file
14 the permanency plan with the court within 60 days after the date on which the
15 juvenile was first removed from his or her home, except under either of the following
16 conditions: *placed outside the home of his or her parent or Indian custodian*

17 **SECTION 356.** 938.38 (4) (i) of the statutes is created to read:

18 938.38 (4) (i) If the juvenile is an Indian juvenile who is ~~under the protection of~~
19 ~~or subject to~~ *under s. 938.13 (4), (6), (6m), or (7), all of the following:*

20 1. The name, address, and telephone number of the Indian juvenile's Indian
21 custodian and tribe.

22 2. A description of the remedial services and rehabilitation programs offered
23 under s. 938.028 (4) (d) 2. in an effort to prevent the breakup of the Indian family.

24 3. A statement as to whether the Indian juvenile's placement is in compliance
25 with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s.

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1 938.028 (6) (b) and, if the placement is not in compliance with that order, a statement
2 as to whether there is good cause, as described in s. 938.028 (6) (d), for departing from
3 that order.

4 **SECTION 357.** 938.38 (4m) of the statutes is created to read:

5 938.38 (4m) PERMANENCY PLAN DETERMINATION HEARING. (a) If in a proceeding
6 under s. 938.21, 938.32, 938.355, 938.357, or 938.365 the court finds that any of the
7 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,
8 the court shall hold a hearing within 30 days after the date of that finding to
9 determine the permanency plan for the juvenile. If a hearing is held under this
10 paragraph, the agency responsible for preparing the permanency plan shall file the
11 permanency plan with the court not less than 5 days before the hearing.

12 (b) At least 10 days before the hearing the court shall notify the juvenile, any
13 parent, guardian, and legal custodian of the juvenile, any foster parent, treatment
14 foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile and,
15 if the juvenile is an Indian juvenile who is or is alleged to be in need of protection or
16 services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian
17 and tribe of the time, place, and purpose of the hearing.

18 ~~(c) If the court knows or has reason to know that the juvenile is an Indian~~
19 ~~juvenile who is or is alleged to be in need of protection or services under s. 938.13 (4),~~
20 ~~(6), (6m), or (7), notice under par. (b) to the Indian juvenile's parent, Indian custodian,~~
21 ~~and tribe shall be provided in the manner specified in s. 938.028 (4) (a). No hearing~~
22 ~~may be held under par. (a) until at least 10 days after receipt of the notice by the~~
23 ~~Indian juvenile's parent, Indian custodian, and tribe or until at least 25 days after~~
24 ~~receipt of the notice by the U.S. secretary of the interior. On request of the Indian~~

~~if the identity or location of the Indian juvenile's parent, Indian~~
~~custodian, or tribe cannot be determined,~~

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SECTION 357

1 juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of
 2 up to 20 additional days to enable the requester to prepare for the hearing.

3 (c) ~~(d)~~ The court shall give a foster parent, treatment foster parent, or other
 4 physical custodian described in s. 48.62 (2) who is notified of a hearing under par. (b)

5 ~~to be heard~~ ^(a right) to be heard at the hearing by permitting the foster parent, treatment
 6 foster parent, or other physical custodian to make a written or oral statement during
 7 the hearing, or to submit a written statement prior to the hearing, relevant to the
 8 issues to be determined at the hearing. The foster parent, treatment foster parent,
 9 or other physical custodian does not become a party to the proceeding on which the

10 hearing is held solely on the basis of receiving that notice and ~~having the opportunity~~

11 ^(right) to be heard. placed outside the home of his or her parent or Indian custodian.

12 SECTION 358. 938.38 (5) (b) of the statutes is amended to read:

13 938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,
 14 the juvenile, if he or she is 10 years of age or older, ~~and; the juvenile's parent,~~
 15 guardian, and legal custodian; the juvenile's foster parent, the juvenile's treatment
 16 foster parent, the operator of the facility in which the juvenile is living, or the relative
 17 with whom the juvenile is living; and, if the juvenile is an Indian juvenile who is in
 18 ~~need of protection or services~~ under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's
 19 Indian custodian and tribe of the date, time, and place of the review, of the issues to
 20 be determined as part of the review, and of the fact that they may have an opportunity
 21 to be heard at the review by submitting written comments not less than 10 working
 22 days before the review or by participating at the review. The court or agency shall
 23 notify the person representing the interests of the public, the juvenile's counsel, and
 24 the juvenile's guardian ad litem of the date of the review, of the issues to be
 25 determined as part of the review, and of the fact that they may submit written

~~BILL~~

~~1 If the identity or location of the Indian juvenile's~~
~~2 parent, Indian custodian, or tribe cannot be determined,~~
comments not less than 10 working days before the review. The notices under this
paragraph shall be provided in writing not less than 30 days before the review and
copies of the notices shall be filed in the juvenile's case record.

SECTION 359. 938.38 (5) (bm) of the statutes is created to read:

938.38 (5) (bm) If the juvenile is an Indian juvenile who is in need of protection
or services under s. 938.13 (4), (6), (6m), or (7), notice under par. (b) to the Indian
juvenile's parent, Indian custodian, and tribe shall be provided in the manner
specified in s. 938.028 (4) (a). No review may be held until at least 10 days after
receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or
until at least ¹⁰ 25 days after receipt of the notice by the U.S. secretary of the interior.
On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall
grant a continuance of up to 20 additional days to enable the requester to prepare
for the review.
*placed outside the home of his or her parent or Indian
custodian*

SECTION 360. 938.38 (5) (c) 8. of the statutes is created to read:

938.38 (5) (c) 8. If the juvenile is an Indian juvenile who is ~~in need of protection~~
~~or services~~ under s. 938.13 (4), (6), (6m), or (7), whether active efforts under s. 938.028
(4) (d) 2. were made by the agency to prevent the breakup of the Indian family,
whether those efforts have proved unsuccessful, whether the Indian child's
placement is in compliance with the order of placement preference under s. 938.028
(6) (a) or, if applicable, s. 938.028 (6) (b), and, if the placement is not in compliance
with that order, whether there is good cause, as described in s. 938.028 (6) (d), for
departing from that order.

SECTION 361. 938.38 (5) (d) of the statutes is amended to read:

938.38 (5) (d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the
permanency plan shall, at least 5 days before a review by a review panel, provide to

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placed outside the home of his or her
parent or Indian custodian

SECTION 361

(the twin)

1 each person appointed to the review panel, the juvenile's parent, guardian, and legal
2 custodian, the person representing the interests of the public, the juvenile's counsel
3 and, the juvenile's guardian ad litem, and, if the juvenile is an Indian juvenile who
4 is ~~in need of protection or services~~ under s. 938.13 (4), (6), (6m), or (7), the Indian
5 juvenile's Indian custodian and tribe a copy of the permanency plan and any written
6 comments submitted under par. (b). Notwithstanding s. 938.78 (2) (a), a person
7 appointed to a review panel, the person representing the interests of the public, the
8 juvenile's counsel and, the juvenile's guardian ad litem, and, if the juvenile is an
9 Indian juvenile who is ~~in need of protection or services~~ under s. 938.13 (4), (6), (6m),
10 or (7), the Indian juvenile's Indian custodian and tribe may have access to any other
11 records concerning the juvenile for the purpose of participating in the review. A
12 person permitted access to a juvenile's records under this paragraph may not disclose
13 any information from the records to any other person.

14 **SECTION 362.** 938.38 (5) (e) of the statutes is amended to read:

15 938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
16 the determinations under par. (c) and shall provide a copy to the court that entered
17 the order; the juvenile or the juvenile's counsel or, guardian ad litem; the person
18 representing the interests of the public; the juvenile's parent or, guardian and, or
19 legal custodian; the juvenile's foster parent, the juvenile's treatment foster parent,
20 or the operator of the facility where the juvenile is living; and, if the juvenile is an
21 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),
22 or (7), the Indian juvenile's Indian custodian and tribe.

23 **SECTION 363.** 938.38 (5m) (b) of the statutes is amended to read:

24 938.38 (5m) (b) Not less than 30 days before the date of the hearing, the court
25 shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; the

BILL placed outside the home of his or her parent or

SECTION 363

Indian custodian

(see Rule)

juvenile's foster parent or treatment foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; the juvenile's counsel, and the juvenile's guardian ad litem; the agency that prepared the permanency plan; and the person representing the interests of the public; and, if the juvenile is an Indian juvenile who is ~~in need of protection or services~~ under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the date, time, and place of the hearing.

SECTION 364. 938.38 (5m) (bm) of the statutes is created to read:

938.38 (5m) (bm) If the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), notice under par. (b) to the Indian juvenile's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 938.028 (4) (a). No hearing under par. (a) may be held until at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or until at least 20 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 365. 938.38 (5m) (d) of the statutes is amended to read:

938.38 (5m) (d) At least 5 days before the date of the hearing the agency that prepared the permanency plan shall provide a copy of the permanency plan and any written comments submitted under par. (c) to the court, to the juvenile's parent, guardian, and legal custodian, to the person representing the interests of the public, and to the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian juvenile who is ~~in need of protection or services~~ under s. 938.13 (4), (6), (6m), or (7), to the Indian juvenile's Indian custodian and tribe. Notwithstanding s. 938.78 (2)

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placed outside the home of the his or her parent
or Indian custodian

SECTION 365

(Use twice)

(a), the person representing the interests of the public and, the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian juvenile who is ~~in need of protection or services~~ under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe may have access to any other records concerning the juvenile for the purpose of participating in the review. A person permitted access to a juvenile's records under this paragraph may not disclose any information from the records to any other person.

SECTION 366. 938.38 (5m) (e) of the statutes is amended to read:

938.38 (5m) (e) After the hearing, the court shall make written findings of fact and conclusions of law relating to the determinations under sub. (5) (c) and shall provide a copy of those findings of fact and conclusions of law to the juvenile; the juvenile's parent, guardian, and legal custodian; the juvenile's foster parent or treatment foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; the agency that prepared the permanency plan; and the person representing the interests of the public; and, if the juvenile is an Indian juvenile who is ~~in need of protection or services~~ under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. The court shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which those findings are based in the findings of fact and conclusions of law prepared under this paragraph. Findings of fact and conclusions of law that merely reference sub. (5) (c) 7. without documenting or referencing that specific information in the findings of fact and conclusions of law or amended findings of fact and conclusions of law that retroactively correct earlier findings of fact and

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1 conclusions of law that do not comply with this paragraph are not sufficient to comply
2 with this paragraph.

3 **SECTION 367.** 938.538 (6m) (a) 1. of the statutes is repealed.

4 **SECTION 368.** 938.538 (6m) (a) 4. of the statutes is amended to read:

5 938.538 (6m) (a) 4. "Minority group member" means a Black, a Hispanic, or an
6 American Indian person.

7 **SECTION 369. Initial applicability.**

8 (1) INVOLUNTARY TERMINATION OF PARENTAL RIGHTS. The treatment of sections
9 48.415 (intro.) and ~~(2) (a) 2, 48.42 (1) (e), and 48.424 (1) (b) and (3)~~ of the statutes
10 first applies to a termination of parental rights petition filed on the effective date of
11 this subsection.

12 **SECTION 370. Effective date.**

13 ~~(1) This act takes effect on July 1, 2008.~~

14 (END)